BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	**CC Docket No. 98-94**
1998 Biennial Regulatory Review—	)	
Testing New Technology	)	

REPLY COMMENTS OF INTERMEDIA COMMUNICATIONS INC.

INTERMEDIA COMMUNICATIONS INC. ("Intermedia"), by its undersigned counsel and pursuant to the Commission's *Notice of Inquiry*,[1] hereby respectfully submits its reply comments in this proceeding. Intermedia applauds the Commission's deregulatory initiatives, as do virtually all of the commenters in this proceeding. Intermedia continues to believe, however, that any deregulatory initiatives the Commission ultimately adopts should strike a balance between encouraging the development and deployment of advanced technology through testing and experiments, and protecting the interests of consumers and competing carriers.

The record in this proceeding demonstrates that, while the commenters are unanimous in their praise of the Commission's overarching deregulatory objectives, several commenters agree with Intermedia that the Commission should retain some level of oversight over technology

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[1] *1998 Biennial Review—Testing New Technology*, CC Docket No. 98-94, FCC 98-118, Notice of Inquiry (rel. June 11, 1998) (*Notice of Inquiry*).

testing.[2] Intermedia continues to believe that there is a fundamental need to have a predefined set of conditions under which proponents of experiments involving advanced telecommunications technology may operate. The ultimate goal is to foster the development and commercial introduction of advanced telecommunications technology and services, while ensuring that abusive and anticompetitive practices do not come about as a result. The argument that *complete deregulation* will expedite the introduction of new services and technology[3] presupposes that the whole gamut of telecommunications markets are sufficiently competitive and, hence, is entirely unrealistic.

As Intermedia proposed in its comments, the Commission should adopt a minimum set of requirements including, but not necessarily limited to, notification and disclosure, tariffing, and other requirements which the Commission may deem appropriate. While Intermedia concurs that a formal Commission approval should not be a necessary precondition to initiating a test or an experiment, Intermedia strongly disagrees with Bell Atlantic and USTA that all filings should be eliminated entirely.[4] In particular, Intermedia disagrees with Bell Atlantic and USTA that the Commission should dispense with the tariffing requirement.[5] Nor does Intermedia agree that advance notice or disclosure is unnecessary.

These requirements serve very important purposes. First, as Intermedia noted in its comments, these requirements provide the Commission with the necessary information to

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2 *See, e.g.,* Comments of Intermedia Communications Inc., at 3, 4; Comments of AirTouch, at 6; Comments of SBC Communications, at 1.

3 *See* Comments of Ameritech, at 2.

4 *See* Comments of Bell Atlantic, at 2; Comments of USTA, at 4.

5 *See* Comments of Bell Atlantic, at 4; Comments of USTA, at 5.

determine whether the proposed trial is reasonable in scope, purpose, and duration.[6] Second, they enable other carriers who may wish to participate in the experiment to plan in advance of the test.[7] Finally, they alert carriers and customers who may potentially be affected by the proposed trial or experiment.[8] In this regard, Intermedia believes that 90 days' advance notice is preferable; at a minimum, there should be at least 30 days' prior notice of the trial, as SBC Communications suggests.[9]

Intermedia agrees with SBC Communications that some limitation on the number of customers that can participate in a market trial should be established in order to prevent the misuse of the trial process.[10] In addition, contrary to BellSouth's suggestion,[11] it is appropriate to require that trials be time-bound; allowing carriers to conduct trials indefinitely likely will engender abuses.

Bell Atlantic suggests that a carrier who chooses to offer a follow-on service should be allowed to continue the trial to existing participants who wish to continue receiving the service.[12]

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6 *See* Comments of Intermedia, at 4.

7 *See* Comments of MCI, at 8 (stating that advance notice provides competitors an opportunity to perform parallel technology trials or to piggy-back on planned trial).

8 *See generally* Comments of AirTouch, at 2-3.

9 Comments of SBC Communications, at 3.

10 *See* Comments of SBC Communications, at 6. *But see* Comments of Bell Atlantic, at 7; Comments of USTA, at 5; Comments of BellSouth, at 4 (arguing that there should be no limitation on the number of participants).

11 *See* Comments of BellSouth, at 4.

12 Comments of Bell Atlantic, at 8.

Intermedia does not disagree that trial customers should be allowed to receive follow-on service, subject to certain conditions. Specifically, the choice of subscribing to any follow-on service should be the trial customer's alone. In this regard, carriers should be precluded from imposing term commitments or termination liabilities on trial customers.[13] Nor should carriers be allowed to condition participation in the trial on the trial customer signing up for follow-on services.

Intermedia disagrees that the incumbent local exchange carriers ("ILECs") should be allowed to bundle customer premises equipment and information services with their telecommunications services during technical and market trials.[14] No commenter has demonstrated the public benefits of allowing the ILECs to bundle these services, nor has any ILEC demonstrated that no competitive harm would result therefrom. To the extent to which the Commission is inclined to allow such bundling, the Commission should insist on clear and precise disclosures from the ILECs.

Finally, Intermedia agrees with MCI that the Commission should permit competing carriers to gain access to ILEC network and facilities involved in trials or experiments.[15] Such an approach would prevent the ILECs from circumventing the interconnection and unbundling requirements of the federal Telecommunications Act of 1996 (the "1996 Act"). In this regard, Intermedia disagrees with Ameritech's observation that "applying the 1996 Act's unbundling, resale, and interLATA obligations to advanced telecommunications capability discourages the investment required to widely deploy such capability."[16] To the contrary, these obligations

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13 *See* Comments of Intermedia, at 5.

14 Comments of Bell Atlantic, at 2; Comments of USTA, at 6.

15 *See* Comments of MCI, at 8.

16 Comments of Ameritech, at 2.

ensure the vibrancy and openness of the market for telecommunications by preventing the ILECs from misusing their control of critical telecommunications input.

In conclusion, the Commission's deregulatory initiatives are laudable. The record demonstrates, however, that some measure of regulatory oversight—as opposed to complete deregulation—is appropriate. Accordingly, the Commission should define specific conditions under which tests may be conducted. Moreover, the Commission should not dispense with the unbundling, interconnection, resale, separations, and other requirements of the 1996 Act.

Respectfully submitted,

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Dated: August 5, 1998

CERTIFICATE OF SERVICE

I, Enrico C. Soriano, hereby certify that I have, on this 5th day of August, 1998, caused to be served a copy of the foregoing Reply Comments of Intermedia Communications Inc. upon the following individuals, by hand-delivery:

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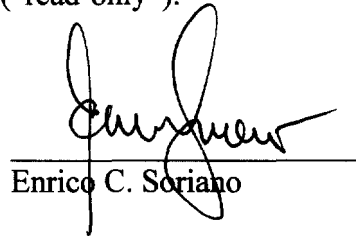

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